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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 30th March, 1970/Chaitra 9, 1892 (Saka)

THE NORTH-EAST FRONTIER AGENCY PREVENTIVE DETENTION REGULATION, 1970

No. 1 OF 1970.

Promulgated by the President in the Twenty-first Year of the Republic of India.

A Regulation to provide for preventive detention in certain cases and for matters connected therewith.

In exercise of the powers conferred by article 240 of the Constitution, read with sub-paragraph (2) of paragraph 18 of the Sixth Schedule to the Constitution, the President is pleased to promulgate the following Regulation made by him:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the North-East Frontier Agency Preventive Detention Regulation, 1970.

(*2*) It extends to the whole of the North-East Frontier Agency.

(*3*) It shall come into force at once.

Definitions.

2. In this Regulation, unless the context otherwise requires,—

(*i*) "Additional Deputy Commissioner" means an Additional Deputy Commissioner of a District of the North-East Frontier Agency;

(*ii*) "Deputy Commissioner" means the Deputy Commissioner of a District of the North-East Frontier Agency;

(*iii*) "detention order" means an order made under section 3;

(*iv*) "Governor" means the Governor of Assam; and

(*v*) "North-East Frontier Agency" means the North-East Frontier Agency referred to in the North-East Frontier Areas (Administration) Regulation, 1954. 1 of 1954.

Power to make orders detaining certain persons.

3. (*1*) The Governor may—

(*a*) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to—

(*i*) the defence of India, the relations of India with foreign powers, or the security of India, or

(*ii*) the security of the State or the maintenance of public order, or

(*iii*) the maintenance of supplies and services essential to the community, or

(*b*) if satisfied with respect to any person who is a foreigner within the meaning of the Foreigners Act, 1946, that with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India, 31 of 1946.

it is necessary so to do, make an order directing that such person be detained.

(*2*) Any of the following officers, namely:—

(*a*) Deputy Commissioners, or

(*b*) Additional Deputy Commissioners,

may, if satisfied as provided in sub-clauses (*ii*) and (*iii*) of clause (*a*) of sub-section (*1*), exercise the power conferred by the said sub-section.

(*3*) When any order is made under this section by an officer mentioned in sub-section (*2*), he shall forthwith report the fact to the Governor together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the Governor.

Detention orders to be made in respect of persons in North-East Frontier Agency.

4. (*1*) No detention order shall be made under this Regulation in respect of a person outside the territorial limits of the North-East Frontier Agency.

(*2*) Subject to sub-section (*1*) no detention order made by an officer mentioned in sub-section (*2*) of section 3 shall be invalid or inoperative merely by reason—

(*a*) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the officer making the order, or

(*b*) that the place of detention of such person is outside the said limits.

Execution of detention orders.

5. A detention order may be executed in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1898. 5 of 1898.

Power to regulate place and conditions of detention.

6. Every person in respect of whom a detention order has been made shall be liable—

(*a*) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the Governor may, by general or special order, specify; and

(*b*) to be removed from one place of detention to another place of detention, whether within the North-East Frontier Agency or in any other area within the State of Assam or in another State, by order of the Governor:

Provided that no order shall be made by the Governor under clause (*b*) for the removal of a person from the North-East Frontier Agency to such other State except with the consent of the Government of that State.

Powers in relation to absconding persons.

7. (*1*) If the Governor or an officer mentioned in sub-section (*2*) of section 3, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, the Governor or officer may—

(*a*) make a report in writing of the fact to a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;

5 of 1898.

(*b*) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, or any other law for the time being in force every offence punishable under clause (*b*) of sub-section (*1*) shall be cognizable.

5 of 1898.

Grounds of order of detention to be disclosed to persons affected by the order.

8. (*1*) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order to the Governor.

(*2*) Nothing in sub-section (*1*) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

Constitution of Advisory Boards.

9. (*1*) The Governor shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Regulation.

(*2*) Every such Board shall consist of three persons who are, or have been, or are qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the Governor.

(3) The Governor shall appoint one of the members of the Advisory Board who is or has been a Judge of a High Court to be its Chairman.

Reference to Advisory Boards.

10. In every case where a detention order has been made under this Regulation, the Governor shall, within thirty days from the date of detention under the order, place before the Advisory Board the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer, also the report by such officer under sub-section (3) of section 3.

Procedure of Advisory Boards.

11. (1) The Advisory Board shall after considering the materials placed before it and, after calling for such further information as it may deem necessary from the Governor or from any person called for the purpose through the Governor or from the person concerned, and if in any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the Governor within ten weeks from the date of detention.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members of the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

Action upon the report of Advisory Board and the maximum period of detention

12. (1) In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the Governor may confirm the detention order and continue the detention of the person concerned for such period, not being beyond a period of twelve months from the date of detention, as he thinks fit.

(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the Governor shall revoke the detention order and cause the person to be released forthwith.

Revocation of detention order.

13. (1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may at any time be revoked or modified, notwithstanding that the order has been made by an officer mentioned in sub-section (2) of section 3, by the Governor. 10 of 1897.

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Governor or an officer, as the case may be, is satisfied that such an order should be made.

Temporary release of persons detained.

14. (*1*) The Governor may at any time direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may at any time cancel his release.

(*2*) In directing the release of any person under sub-section (*1*), the Governor may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(*3*) Any person released under sub-section (*1*) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(*4*) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (*3*), he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

(*5*) If any person released under sub-section (*1*) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to the penalty thereof.

Protection of action taken under the Regulation.

15. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Regulation.

Certain provisions of the Regulation to have effect as if Act 5 of 1898 is in force.

16. The provisions of sections 5 and 7 shall have effect as if the Code of Criminal Procedure, 1898, applies to the North-East Frontier Agency.

V. V. GIRI,
President.

N. D. P. NAMBOODIRIPAD,
Joint Secy. to the Govt. of India.

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